

	)	
JIN MING LIN, CHI WAI CHAO,	)	
YOOK THAI CHEAH, MING F. FUNG,	)	
MUOI GIANG, YUEN YUE SOOHOO,	)	
and MEI ZHI,	)	
	)	
Plaintiffs,	)	Civil Action No. 09-11510-GAO
v.	)	
	)	
CHINATOWN RESTAURANT CORP.,	)	
and JOYCE P.Y. HAYES,	)	
	)	
Defendants.	)	
	)	

Defendants may seek to adduce evidence that Plaintiffs or other employees at the Restaurant failed to complaint to Defendant Hayes or others that they were not being paid for all of their hours worked or that they were not being paid for overtime hours.

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Whatever the reason, evidence concerning the lack of complaints is irrelevant under F.R.E. 401 and should be excluded under F.R.E. 402.

Additionally, evidence concerning Plaintiffs' or other employees' failure to complain is unduly prejudicial and is likely to confuse the issues before a jury. A juror may attach undue significance to the lack of a complaint even though federal and state laws do not require a worker to have complained at all. Given the potential for prejudice and confusion and the lack of relevance of this evidence, the Court should preclude defendants from making any references to any lack of complaints by Plaintiffs and other workers under F.R.E. 401-403.

RESPECTFULLY SUBMITTED,

**For Plaintiffs**

By their attorneys,

/s/ Myong J. Joun  
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Dated: October 19, 2012

**CERTIFICATE OF SERVICE**

I certify that on this day I caused a true copy of the above document to be served upon the attorney of record for all parties via CM/ECF.

/s/ Jeffrey Wiesner  
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Date: 10/19/2012 /s/Myong J. Joun  
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